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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,297	08/17/2001	Jorge Tejada	99-565	4865

7590 06/23/2003

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EXAMINER

ARNOLD JR, JAMES

ART UNIT	PAPER NUMBER
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1764

DATE MAILED: 06/23/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/932,297

Applicant(s)

TEJADA ET AL.

Examiner

James Arnold, Jr.

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— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,6,9 and 10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,6,9-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

Applicant's cancellation of claims 5 and 7-8 is acknowledged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-4, 6, and 9-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Monque (USPN 5,576,256) in view of Martinez (5,254,327).

The Monque reference discloses a support comprising a mixture of zeolite and alumina. See Column 6, lines 57-61. See Column 16, lines 66-67. The Monque reference discloses a metal active phase on said support comprising a first metal selected from group 6 of the periodic table of elements (including molybdenum); a second metal selected from the group consisting of group 8, 9, and 10 (including nickel and cobalt); and a third element selected from group 15 (including phosphorus). See abstract. See Column 2, lines 1-7. See Column 14, lines 29-37.

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See Column 15, lines 64-67. See Column 16, lines 1-10 and lines 47-50. The Monque reference discloses the use of an MFI zeolite. See Column 15, lines 53-54.

The Monque reference does not disclose a zeolite having an Si/Al ratio of between about 1 and about 20. The Monque reference does not disclose an ST-5 zeolite. The reference does not disclose a catalyst wherein the support comprises between about 10 and about 90% wt of said zeolite and between about 90 and about 10% wt of said alumina. The reference does not disclose a catalyst wherein said metal active phase contains at least about 1% (wt) of said first metal, at least about 0.5% (wt) of said second metal, and at least about 0.2% (wt) of said third element.

The Martinez reference discloses a zeolite having an Si/Al ratio of less than 26. See Abstract. The Martinez reference discloses the use of an ST-5 zeolite. See Column 5, lines 16-18.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a zeolite having an Si/Al ratio of between about 1 and about 20 because the use of the zeolite as a component of the catalyst is disclosed by both Monque and Martinez and it would be appropriate to use a zeolite with an Si/Al ratio appropriate for catalytic activity. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize an ST-5 zeolite because ST-5 is one type of MFI zeolite and would be expected to have similar catalytic properties. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a catalyst wherein the support comprises between about 10 and about 90% wt of said zeolite and between about 90 and about 10% wt of said alumina because the Monque reference discloses a support with zeolitic and alumina composition and it would be appropriate to use a support with said composition

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arranged in any ratio effective for catalytic activity. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize a catalyst wherein said metal active phase contains at least about 1% (wt) of said first metal, at least about 0.5% (wt) of said second metal, and at least about 0.2% (wt) of said third element because the Monque reference discloses the use of a metal active phase and it would be appropriate to use the component metals in any ratio effective for catalytic activity.

Response to Arguments

Applicant's arguments have been fully considered but are deemed unpersuasive. Applicant does not particularly point out in his response the advantages of the instant application over the Monque reference. Furthermore, applicant fails to indicate how Examiner's combination of references amount to nothing more than hindsight reasoning. Finally, the Examiner has provided proper motivation for each assertion of obviousness in the present application. Therefore, Examiner maintains that the present disclosure is obvious in light of the teachings of Monque and Martinez.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

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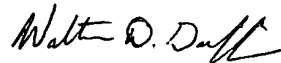
CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Arnold, Jr. whose telephone number is 703-305-5308. The examiner can normally be reached on Monday-Thursday 8:30 AM-6:00 PM; Fridays from 8:30 AM-5:00 PM with alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 703-308-6824. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0651.

ja
June 19, 2003


Walter D. Griffin
Primary Examiner